

FAX

To: Hon. Kollar-Kotelly From: Tom Keating
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CRG**CAREER RESOURCES GROUP**

January 16, 2002

Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotelly:

The proposed settlement between the Department of Justice and Microsoft in *U.S. v. Microsoft* falls far short of what is needed to put an end Microsoft's pattern of predatory practices.

Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is much too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through fear and intimidation.

This proposed settlement clearly fails to meet the standards clearly laid out by the appellate court. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. For example, the proposed settlement permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

The weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants.

A three-person technical committee will be appointed, which Microsoft appointing one member, the Department of Justice appointing another, and the two sides agreeing on the third. This means that Microsoft gets to appoint half of the members of the group watching over its actions.

The committee is supposed to identify violations of the agreement. But even if the committee finds violations, the work of that committee cannot be admitted into court in any enforcement proceeding. This is like allowing a football referee to throw as many penalty flags as he likes for flagrant violations on the field, but prohibiting him from marching off any penalties.

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Finally, Microsoft must comply with the lenient restrictions in the agreement for only five years. This is not long enough for a company found guilty of violating antitrust law.

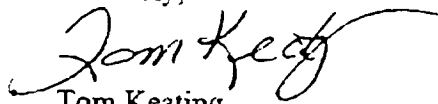
Sadly, the proposed final judgment by Microsoft and the Department of Justice has the potential to make the competitive landscape of the software industry worse, contains so many ambiguities and loopholes that it may be unenforceable, and is likely to lead to years of additional litigation.

The end result is that this proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also freeing Microsoft to use anticompetitive tactics to spread its dominance into other markets.

After more than 11 years of litigation and investigation against Microsoft, surely we can – and we must – do much better than this flawed proposed settlement between the company and the Department of Justice.

Thank you for your time.

Sincerely,



Tom Keating

President

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